

**D R A F T**

**California Department of Transportation  
Native American Advisory Committee  
Quarterly Meeting Minutes  
April 29, 2003**

Joseph Myers, Chairperson, called the meeting to order at 9:11 a.m.

**Roll Call:** Committee members in attendance were Samuel Elizondo, Joseph Garcia, Sr., Michael Holman, Vlayn McCovey, Martin D. Martinez III, Bo Mazzetti, Joseph A. Myers, Dave Nenna, Joe Sanchez, and Kathy Wallace. Alternate member in attendance was Aaron Holstine for Irenia Quitiquit. The Director's representative, Brian J. Smith, Deputy Director, Planning and Modal Programs, was in attendance.

**Adopt Agenda:** Agenda was adopted by voice vote.

**Approve Minutes:** Minutes of the January 29, 2003 meeting were approved. Motion by Bo Mazzetti; Second by Dave Nenna. Vote was 9 For, 0 Against, 0 Abstain.

Brian J. Smith welcomed everyone to the meeting.

**OLD BUSINESS:**

1. **Contracting with Tribes.** Joan Sollenberger, Chief, Division of Transportation Planning, reviewed that Brelend Gowan, Legal Division, had stated during the January meeting that the Department could not contract with Tribes due to State law. The Department needs to meet with Joseph Myers to discuss next actions. Mr. Myers indicated that he considers a meeting essential and that contracting goes hand in hand with the dispute regarding Tribes as "public entities." Tribal Governmental membership in councils of government (COGs) is affected by the same dispute. Both items need to be on the table, as the regionals hide behind the State code regarding the status of Tribes. Unless positions can be adjusted, he does not see that the situation can be resolved short of legislation. Mr. Myers suggested that attention to the Federal definitions of Tribes could perhaps resolve the dilemma.

Martin Martinez voiced that he had taken exception to a comment by Mr. Gowan at the January 29<sup>th</sup> meeting, indicated that he considered it racist and questioned if the comment was representative of the attitude in those who are making the legal decisions for the Department. He suggested that sensitivity training would be in order. Mr. Myers responded that it was an important point, and that it needs to be addressed in the meeting with the Department. He explained that the government-to-government relationship with the Department is relatively new in State government, and that perhaps Legal needs to understand that a primary goal of the Department is to carry out the policy of the Department.

Joan Sollenberger will schedule a meeting as soon as possible. Brian J. Smith indicated that the effort will be to schedule a meeting within the next few weeks, and that he would pursue the comment Mr. Martinez mentioned with Legal. He recommended that if the Committee works toward legislation to change the existing position of the Department and the COGs, that it be done separately so as not to dilute the intent of either goal. Dave Nenna volunteered to assist with drafting legislation if it is necessary.

Mr. Myers requested input from those in attendance prior to a meeting with the Department.

2. **Legislative Subcommittee Report.** Cynthia Gomez, Chief, Native American Liaison Branch, reported on three pieces of the Federal Highway reauthorization legislation currently proposed: 1. Vlayn McCovey is still pushing for a minimum of \$35,000 in planning funding for each Tribe as part of the

**D R A F T**

National Congress of American Indians (NCAI) proposal; 2. The Indian Reservation Roads (IRR) Program funding and formulas would remain pretty much as they are now; and 3. The Navajo Nations is spearheading proposals (S528 and HR1107) for Indian School Bus Route Safety. As currently drafted, the legislation would only benefit the Navajo. Ms. Gomez indicated that Maria Contreras-Sweet, Secretary of Business, Transportation and Housing, is working to get support for California's issues.

Tina Biorn, Native American Liaison, Environmental Cultural and Community Studies office, reported that there are six laws being proposed in the California Legislature regarding cultural resources.

**3. Highway Landscaping Subcommittee.** Cassandra Hensher reviewed the topics of work/discussion during the April 28, 2003 meeting. The Subcommittee made corrections/adjustments to the flow chart of the Maintenance Division's Vegetation Control Plan (VEGCON) that it is developing as part of its efforts to help the Department's Maintenance staff protect gathering sites. Upon completion of the flow chart, the Subcommittee plan is to develop materials to be used to educate Department personnel and Native Americans of the gathering process. It hopes to receive support from Tribes with gaming enterprises in funding the production of the materials. The possibility of such support was mentioned during the January 29<sup>th</sup> Committee meeting.

Work is progressing on the information packet being developed by the Subcommittee. Contents of the packet will include the Subcommittee's Mission Statement, history, list of Department District Landscape Specialists, Native American Liaisons and Coordinators, as well as Tribal maps (non-confidential).

Claudia Gumbaro, Biologist in District 10, is seeking native nurseries to include in the packet. Stan Anderson, Tuolumne Rancheria, indicated that Tuolumne has a native plant nursery.

**4. Driver Safety/Rural Issues Report.** The need to improve youth driving habits was discussed. Joe Myers voiced the need, also, to involve the California Highway Patrol in preventive measures with Indian youth. He announced the Fourth Annual Conference on California Indian Families, which will be held on August 27-29, 2003 in San Diego at the Marriott Hotel and Marina. During the conference, a youth curriculum for teaching safety issues will be tested.

Betty Miller queried the gathering regarding participation in a poster campaign to reduce pedestrian injuries and fatalities that had been presented to her by the Division of Traffic Operations Safety Research Branch. It was understood that a poster, with a photograph of an Indian child, could be printed and distributed to Tribes throughout the State for display in their public facilities during this coming fall. The response was positive from the assembly. (However, subsequent to the April 29<sup>th</sup> meeting, the Division of Traffic Operations learned that the vendor's project deadline did not allow for including any additional photographs in the campaign. Posters will be distributed to all Tribes for display, depicting the child already chosen by the vendor.)

Joan Sollenberger indicated that she is waiting to hear from the California Office of Traffic Safety regarding the grant request submitted by the Division of Traffic Operations for the purpose of funding a driver safety education campaign. If funding is granted, the National Indian Justice Center will administer the program.

**5. Indian Reservation Roads (IRR) Program.** Vlayn McCovey reported that the IRR Rulemaking Committee met in February and March to review comments to the proposed rule, and that the results were very discouraging. Big Tribes, once again, ruled the discussions. Substantial proposed changes, in particular with regard to the funding formula favored by small Tribes, were rejected by the Committee. The rule is now considered to belong to the Assistant Secretary-Bureau of Indian Affairs. Efforts are under way to get an extension of time before the final determination due to a lot of issues being unresolved.

**DRAFT**

General discussion by the assembly revealed that only 17 of California's Tribal Governments commented on the proposed rule. And while three representatives from California were originally appointed to the Rulemaking Committee, two did not continue attending the meetings.

Cynthia Gomez mentioned that another concern for Tribes was trying to develop an inventory with Tribal funding. Additionally, inventories submitted to the BIA for the IRR Program may not be allowed for funding, due to a maximum ceiling placed on the number of roads that can be introduced into the inventory---a policy of the Central BIA office in Washington, DC.

Joey Silvas, BIA, Northern California Agency, indicated that the BIA is discouraging increases to the IRR Program inventories and that Trust resources funding could be in jeopardy. Hiram Johnson, Hopland Reservation, said that development is going on now, and that Hopland could not wait for IRR Program funds.

Michael Holman expressed the opinion that Tribes in California are fighting two battles: Unable to get help relative to the IRR Program and running into obstacles from the State agencies and regional councils of government when trying to access transportation funding and support.

A question arose as to the number of county roads that serve Tribal lands. Cynthia Gomez indicated that the Department will work with the BIA to learn which county roads are on the IRR inventory. She will, also, present the IRR/county road/impacted by Termination problem to the Transportation Research Board (TRB).

Joey Silvas indicated that there is a large bridge fund balance. The BIA will contribute 80% of funding for a bridge project if it is on the national inventory. The BIA is attempting to persuade the Federal Highway Administration to allow excess bridge funds for survey and design work, instead of being limited to capital expenditures.

**6. Reauthorization Act.** Cynthia Gomez pretty much covered status report on the upcoming legislation as part of the Legislative Subcommittee Report.

Joan Sollenberger displayed a Department brochure entitled, "Reauthorization Principles," in which support for Native American transportation funding is included. Housing, Transportation and Business Secretary Contreras-Sweet will use the brochure in her efforts to promote California's Reauthorization position.

Comments by a number of those in attendance were directed toward the need of Tribal Governments to find a way to place more of a priority on transportation and working together for the benefit of all of them.

**7. Environmental Subcommittee Report.** Jila Priebe reported on two meetings of the Subcommittee, one held on March 4<sup>th</sup> and a special meeting held April 8<sup>th</sup>. The first was to continue working on a draft of the monitoring policy that will be available for review by the Committee at the next meeting on July 29<sup>th</sup>. The second meeting was convened for the purpose of reviewing the Federal Highway Administration (FHWA) National Historic Preservation Act, Section 106 Programmatic Agreement (PA), which addresses the "106" consultation process. Currently, FHWA and the Department are working on streamlining the Section 106 "consultation" process between the two agencies and with the State Historic Preservation Officer (SHPO). Under the PA, the FHWA has authorized the Department to act on its behalf with regard to the Section 106 process. The special meeting was requested by the Subcommittee members to discuss the proposed PA.

Ms. Biorn distributed copies of the Department's Native American Graves Protection and Repatriation Act (NAGPRA) Status Report, Table 1, "NAGPRA Status of Human Remains and Associated

**D R A F T**

Funerary Objects in California Department of Transportation Collections,” revised March 2003, as well as an outline of the goals of the Department’s Headquarters Curation Committee, a recently reinstated committee for the purpose of updating curation facilities and procedures of repatriation and assisting Tribes in how to establish repositories.

Joe Myers voiced concern that too many remains were not being repatriated to California’s Native Americans and that a disservice was being done to the non-Federally recognized Tribes in repatriating remains.

Mr. Myers announced that the State Parks and Recreation museum director was attempting to sabotage the California Indian Museum and its funding sources, as State Parks and Recreation named its new museum the California Indian Museum. He indicated that the name was trademarked and that a cease and desist order had been issued for the name of the new museum.

**8. Tribal Technical Assistance Program (TTAP).** Evan Hong, Project Director, National Center for American Indian Enterprise Development, distributed CA/NV TTAP materials: The TTAP newsletter, “Reservation Road Reader,” Volume 1, Issue 1; TTAP pamphlet; and a Flagger Training announcement and registration form. Mr. Hong requested information from Tribes to help in developing the TTAP training program. He also outlined the classes offered by the organization and indicated that a website is being developed.

**NEW BUSINESS:**

No new business was presented to the Committee.

**ANNOUNCEMENTS/OPEN FORUM:**

Michael Holman reminded the group of the upcoming Tribal Transportation Academy scheduled for May 14-15, 2003 at the Woodland facility. Please see Agenda for remainder of announcements.

**ADJOURNMENT:**

Motion by Vlayn McCovey to adjourn the meeting; Second by Kathy Wallace. Vote was 11 For, 0 Against, 0 Abstain. The meeting was adjourned at 12:35 p.m.

Submitted by: Betty Miller  
Native American Liaison Branch

Attendance in addition to Committee members and Director's representative:

Joan Sollenberger, California Department of Transportation  
Sharon Scherzinger, California Department of Transportation  
Alex Morales, California Department of Transportation  
Cynthia Gomez, California Department of Transportation  
Jila Priebe, California Department of Transportation  
Jo Sanford, California Department of Transportation  
Aaron L. T-Holstine, Robinson Rancheria  
Tina Biorn, California Department of Transportation  
Kathleen Sartorius, California Department of Transportation

**D R A F T**

**D R A F T**

Mario Orso, California Department of Transportation  
Cassandra Hensher, California Indian Basketweavers Association  
Brian Travis, California Department of Transportation  
Karen Nissen, California Department of Transportation  
Jane Perez, California Department of Transportation  
Kathleen McCloflin, California Department of Transportation  
Bill Dancing Feather, Washoe Tribe of Nevada & California  
Stan Anderson, Tuolumne Rancheria  
Newell Mann, Federated Indians of Graton Rancheria  
Angel Carrera, California Department of Transportation  
Lil Hoaglen, Sherwood Valley Rancheria  
Sherry Johnstone, California Department of Transportation  
Sarah M. Allred, California Department of Transportation  
Evan Hong, NCAIED  
Wade Hobbs, Federal Highway Administration  
Evan Hong, CA/NV TTAP  
Joseph Silvas, BIA, Northern California Agency  
Hiram O. Campbell, Hopland Reservation

**D R A F T**